

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANDREW STRESHENKOFF,)	2:12cv1831
)	Electronic Filing
Plaintiff,)	
)	Judge David Stewart Cercone
v.)	
)	United States Magistrate Judge
ROBERT TUTKO, RAMON RUSTIN,)	Cynthia Reed Eddy
Warden; WILLIAM EMERICK, Deputy)	
Warden; JAMES DONIS, Major; and)	
JOHN DOE(S), Correctional Officers,)	
Defendants.)	

MEMORANDUM ORDER

This case was commenced on December 17, 2012, and was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges. Upon Plaintiff's compliance with the statutory requirements, his motion to proceed in forma pauperis was granted on January 8, 2013. (ECF Nos. 1 and 6.)

Defendants filed a motion to dismiss (ECF No. 20) arguing that the Complaint should be dismissed for failure to state a claim. Plaintiff did not respond to the motion, despite being granted two extensions of time in which to do so. In the absence of any timely response by Plaintiff, the magistrate judge deemed the motion to dismiss to be ripe for disposition and analyzed the Complaint on the merits. *Ray v. Reed*, 240 F. App'x 455, 456 (3d Cir. 2007).

On July 31, 2014, Magistrate Judge Eddy filed a Report and Recommendation (ECF No. 29) recommending that Defendants' motion to dismiss be granted. Plaintiff was served with the Report and Recommendation at his listed address and was advised that he had until August 18,

2014, to file written objections to the Report and Recommendation.¹ Plaintiff has not filed any objections nor has he sought an extension of time in which to do so.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 26th day of August, 2014:

IT IS HEREBY ORDERED that Defendants' motion to dismiss (ECF No. 20) is **GRANTED**;

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 29) dated July 31, 2014, is **ADOPTED** as the Opinion of the Court;

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**; and

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.



David Stewart Cercone
United States District Judge

cc: Andrew Streshenkoff
623 Brookline Blvd.
Pittsburgh PA 15226
(Via First Class Mail)

J. Deron Gabriel, Esquire
(Via CM/ECF Electronic Mail)

¹ At the time Plaintiff commenced this lawsuit he was an inmate in the custody of the Pennsylvania of Corrections confined at SCI-Huntingdon. On September 11, 2013, Plaintiff notified the Court that he had been released from prison and provided a change of address.